

### **REMARKS**

Claims 1-9 are pending in this application, with Claims 1 and 3 being independent claims.

Claims 1-2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yamamoto et al. (U.S. Pat. App. Pub. No.2001/0040173).

Claims 1-3, 5 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmittou (U.S. Pat. No.6,012,462) in view of Yamamoto et al. and further in view of Sigmund et al. (U.S. Pat. No.4,592,376).

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmittou in view of Yamamoto et al., Sigmund et al., and further in view of Cheung (U.S. Pat. No.5,755,241).

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmittou in view of Yamamoto et al., Sigmund et al., and further in view of Rudick (U.S. Pat. No.4,826,046).

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmittou in view of Yamamoto et al., Sigmund et al., and further in view of Turner (U.S. Pat. No.4,792,250).

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmittou in view of Yamamoto et al., Sigmund et al., and further in view of Kornides (U.S. Pat. No.5,297,882).

Claims 1 and 3 are amended. No new subject matter is presented.

Regarding the rejection of Claim 1 under 35 U.S.C. § 102(e), the Examiner states that Yamamoto et al. anticipates each and every limitation of the claim. Amended Claim 1 teaches, in part, a dye container for storing a hair dye, the dye container comprising a dye-containing space for preventing contact between hair dye remaining in the dye container and filling air introduced into the dye container by discharging the hair dye; and at least one mouth disposed outside the dye-containing space, *the hair dye being discharged through the at least one mouth by an outside*

*negative pressure applied at the at least one mouth.*

Yamamoto et al. discloses a dye container 10 for storing a hair dye, the dye container comprising a container main body 11; a mouth 24 for discharging the hair dye; a discharge valve 51; an intake valve 52; and at least one air introducing hole 27 (FIGs. 2-5, paragraphs 0022-0023). The hair dye in Yamamoto et al. is discharged from the mouth 24 by the container main body 11 being squeezed to create an internal positive pressure inside the container main body 11 to push out the hair dye, the internal positive pressure also opening the discharge valve 51 and closing the intake valve 52 (paragraphs 0022-0024). When the squeeze is released (FIGs. 4-5), the internal pressure inside the container main body 11 becomes a negative pressure due to a restoring force of the outer layer 21 as Yamamoto et al. asserts in paragraph 0023. The negative pressure in Yamamoto et al. closes the discharge valve 51 (paragraph 0023). Closure of the discharge valve 51 prevents the dye from being discharged and from being withdrawn further into the container (FIGs. 4-5). In item 1 on page 2 of the Office Action, the Examiner alleges that “the dye is discharged through the mouth by an outside negative pressure.” Applicant respectfully traverses the allegation because the allegation contradicts the assertion by Yamamoto et al. (paragraph 0023).

In item 9 on page 6 of the Office Action, the Examiner further alleges that the hair dye in Yamamoto et al. being discharged by a negative pressure created by a restoring force of the outer layer 21 (FIGs 4-5). Applicant respectfully traverses the further allegation. In Yamamoto et al., the negative pressure created by the restoring force exists within container main body 11 during restoration of the outer layer 21, and the negative pressure opens the intake valve 52 to let in filling air (paragraph 0025). The negative pressure in Yamamoto et al. is not applied at the mouth 24 and does not discharge the hair dye. The hair dye is discharged only “when the container main body 11 is squeezed” (paragraphs 0022 and 0024).

By contrast, the hair dye in Amended Claim 1 is discharged by an outside negative pressure being applied at the mouth. Yamamoto et al. fails to disclose the limitation of *the hair dye being discharged through the at least one mouth by an outside negative pressure applied at the at least one mouth* taught by Amended Claim 1.

*the at least one mouth* taught by Amended Claim 1.

Clearly, Amended Claim 1 structurally differs from Yamamoto et al.

Regarding the rejection of Claim 1 under 35 U.S.C. § 103(a), the Examiner states that Schmittou in view of Yamamoto et al. and further in view of Sigmund et al. renders the claim obvious. Amended Claim 1 teaches, in part, a dye container for storing a hair dye, the dye container comprising a dye-containing space for preventing contact between hair dye remaining in the dye container and filling air introduced into the dye container by discharging the hair dye; and at least one mouth disposed outside the dye-containing space, *the hair dye being discharged through the at least one mouth by an outside negative pressure applied at the at least one mouth.*

Schmittou discloses a dye container 1 for storing a hair dye, the dye container 1 comprising air pressure tubes 2, color tubes 3, and a hand pump 5 (FIG. 1, col. 2 lines 12-29). The hand pump 5 provides positive air pressure to the air pressure tubes 2 and to the dye container 1, and consequently forces the hair dye out the container 1 and through the color tubes 3 (FIG. 1, col. 2 lines 12-29). Schmittou fails to disclose the limitation of *the hair dye being discharged through the at least one mouth by an outside negative pressure applied at the at least one mouth* taught by Amended Claim 1.

With respect to Yamamoto et al., the above rationale for Amended Claim 1 under 35 U.S.C. § 102(e) also applies to Amended Claim 1 under 35 U.S.C. § 103(a) against Yamamoto et al.

Sigmund et al. discloses a dye container 1 for storing a hair dye, the dye container 1 comprising container wall 2; and a discharge opening 3 (FIGs 1-2). Sigmund et al. discharges the hair dye from the container 2 by applying a positive pressure within the dye container 1 on to the dye by squeezing the container wall 2, i.e. applying “a slight pressure upon the wall 2” (FIG. 1, col.3 lines 40-41) or by a pressure spring 25 (FIG. 5, col. 4 lines 34-35). Sigmund et al. fails to disclose or fairly suggest the limitation of *the hair dye being discharged through the at least one mouth by an outside negative pressure applied at the at least one mouth* taught by Amended

Claim 1.

Schmittou, Yamamoto et al., Sigmund et al., individually or in combination, all fail to disclose the limitation of *the hair dye being discharged through the at least one mouth by an outside negative pressure applied at the at least one mouth* taught by Amended Claim 1.

Clearly, Amended Claim 1 structurally differs from Schmittou, Yamamoto et al., Sigmund et al., or any combination thereof.

Regarding the rejection of Claim 3 under 35 U.S.C. § 103(a), the above rationale for Amended Claim 1 under 35 U.S.C. § 103(a) also similarly applies to Amended Claim 3 with respect to Schmittou, Yamamoto et al., Sigmund et al., or any combination thereof.

In view of the preceding amendments and remarks, it is respectfully submitted that all pending claims herein, namely Claims 1-9, are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



---

Paul J. Farrell  
Reg. No. 33,494  
Attorney for Applicant

The Farrell Law Firm  
333 Earle Ovington Boulevard  
Suite 701  
Uniondale, New York 11553  
Tel 516-228-3565  
Fax 516-228-8475

PJF/DGL/mk